

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**Docket Number (Optional)
P-3914F1P1P2P1R1

In re Application of: Bradley M. Wilkinson et al.

Application No.: 09/771,394

Filed: January 26, 2001

For: Surgical Scalpel

The owner*, Becton, Dickinson and Company, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term **prior patent** No. 5,941,892 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the **prior patent** are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the **prior patent**, "as the term of said **prior patent** is presently shortened by any terminal disclaimer," in the event that said **prior patent** later:

expires for failure to pay a maintenance fee;
is held unenforceable;
is found invalid by a court of competent jurisdiction;
is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
has all claims canceled by a reexamination certificate;
is reissued; or
is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☒ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☐ The undersigned is an attorney or agent of record. Reg. No. _____

/davidwhighet/

March 12, 2010

Signature

Date

David W. Highet

Typed or printed name

(201) 847-5317

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Becton, Dickinson and Company

Application No./Patent No.: 09/771,394

Filed/Issue Date: January 26, 2001

Titled:

Becton, Dickinson and Company, a Corporation

(Name of Assignee)

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest in;
2. ☐ an assignee of less than the entire right, title, and interest in
(The extent (by percentage) of its ownership interest is _____ %); or
3. ☐ the assignee of an undivided interest in the entirety of (a complete assignment from one of the joint inventors was made)
- the patent application/patent identified above, by virtue of either:

A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 010047, Frame 0601, or for which a copy therefore is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet(s).

☒ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

/davidwhighet/

Signature

March 12, 2010

Date

David W. Highet

Printed or Typed Name

VP and Chief IP Counsel

Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Wilkinson et al.

Application No.: 09/771,394

Filed: January 26, 2001

For: SURGICAL SCALPEL

:
:
:
:
: Group Art Unit: 3731
:
: Examiner: Kathleen C. Sonnett
:
:
:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Supplemental Sheet Listing Additional Documents in the Chain of Title

Assignment of Anthony J. Kosinski dated January 19, 2001
(Assigning interest in U.S. Patent No. 6,053,929 to Becton, Dickinson and Company)

Dated: March 29, 2010

Respectfully submitted,

By: /Jeanne P. Lukasavage Reg No 45172/

BECTON, DICKINSON AND COMPANY
1 Becton Drive
Franklin Lakes, New Jersey 07417
201-847-6797

Jeanne P. Lukasavage
Registration No.: 45,172

Doc.#170241

ASSIGNMENT

U.S. Patent No. 6,053,929
Issued: April 25, 2000

WHEREAS, I, Anthony J. Kosinski (hereinafter called "Assignor"), have made certain new and useful inventions or discoveries relating to:

SURGICAL SCALPEL

embodied in U.S. Patent No. 6,053,929 which issued on April 25, 2000; and

WHEREAS, Becton Dickinson and Company, a corporation of the State of New Jersey, (hereinafter called "Assignee"), is desirous of acquiring the entire right, title, and interest therein:


NOW, THEREFORE, BE IT KNOWN that for and in consideration of the premises and in acknowledgment, confirmation and performance of obligations which arose out of the terms and conditions of Assignor's employment by Assignee at the time the invention was made, and/or other valuable considerations to him, the receipt and sufficiency of which are hereby acknowledged, Assignor has assigned and transferred, and does hereby assign and transfer unto said Assignee the entire right, title and interest in and to all said inventions and discoveries disclosed in said patent, and in and to said patent, all substitutions, divisions, and continuations thereof, and in and to all Letters Patent, United States and foreign, that may be granted for said inventions and discoveries, and in and to all extensions, renewals, and reissues thereof, the same to be held and enjoyed by said Assignee, its successors and assigns, as fully and entirely as the same would have been held and enjoyed by Assignor if this Assignment and sale had not been made;

And Assignor hereby authorizes and requests the Commissioner of Patents and Trademarks of the United States to issue all of said Letters Patent in accordance with this Assignment;

And for the consideration aforesaid, Assignor covenants and agrees with said Assignee that he has a full and unencumbered title to the inventions and discoveries above described and hereby assigned, which title he warrants unto said Assignee, its successors and assigns;

And for the consideration aforesaid, Assignor further covenants and agrees that he will, whenever requested, but without cost to him, promptly communicate to said Assignee or its representatives any facts known to him relating to said inventions and discoveries, testify in any interference or legal proceedings involving said inventions and discoveries, and execute any additional papers that may be necessary to enable said Assignee or its representatives, successors, nominees, or assigns to secure full and complete protection for the said inventions and discoveries or that may be necessary to vest in said Assignee the complete title to the said inventions and discoveries and patents hereby conveyed and to enable it to record said title.

IN TESTIMONY WHEREOF, Assignor has hereunto set his hand and seal this 19 day of January, 2001.

 1/19/01 (L.S.) (L.S.)
ANTHONY J. KOSINSKI

(L.S.) (L.S.)

☒ NOTARIZATION PAGE ADDED

STATE OF NEW JERSEY

COUNTY OF BERGEN

BE IT REMEMBERED, That on this 19 day of January, 2001, before me, a Notary public, personally appeared ANTHONY J. KOSINSKI, who I am satisfied is the person named in and who executed the foregoing instrument in my presence, and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed, and delivered the same as his voluntary act and deed for the uses and purposes therein expressed.


KATHLEEN MONESTER, Public

A Notary Public of New Jersey

My Commission Expires June 28, 2004